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Paper No.

CLARK & ELBING LLP  
101 FEDERAL STREET  
BOSTON MA 02110

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APR 22 2008

**OFFICE OF PETITIONS**

In re Application of :  
Muller-Hermelink et al. :  
Application No. 10/764,730 : LETTER REGARDING  
Filed: January 26, 2004 : PATENT TERM ADJUSTMENT  
Atty Docket No. 50274/021002 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 22, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the determination of patent term adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance appears to be in error.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ten **(10)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 19, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 74 days. Applicants do not state a basis for their disclosure that the patent term adjustment is in error.

Nonetheless, a review of the application history reveals that an additional period of reduction should have been entered. A


request for continued examination (RCE) and amendment were not filed in response to the Office action mailed March 21, 2007 until August 24, 2007. As such, a period of reduction of 64 days should have been entered pursuant to 37 C.F.R. §1.704(b).

In view thereof, the initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is ten (10) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Friday  
Date: 4/11/2008

# **PALM INTRANET**

Time: 18:01:34

## **PTA Calculations for Application: 10/764730**

Application Filing Date:	01/26/2004	PTO Delay (PTO):	236
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	10
PTO Delay Adjustment:	-64		

## **File Contents History**

Number	Date	Contents Description	PTO	APPL	START
68	04/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		64	
57	11/19/2007	MAIL NOTICE OF ALLOWANCE			
56	11/14/2007	ISSUE REVISION COMPLETED			
55	11/04/2007	DOCUMENT VERIFICATION			
54	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	11/13/2007	NOTICE OF ALLOWABILITY			
51	08/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	08/31/2007	DATE FORWARDED TO EXAMINER			
49	08/24/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	08/31/2007	DATE FORWARDED TO EXAMINER			
47	08/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	08/31/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	08/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/24/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
42	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	08/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	08/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	03/21/2007	MAIL FINAL REJECTION (PTOL - 326)			

38	03/16/2007	FINAL REJECTION			
37	12/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36.7	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	32
36	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	12/22/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
34	12/22/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	01/09/2007	DATE FORWARDED TO EXAMINER			
32	12/22/2006	RESPONSE AFTER NON-FINAL ACTION		93	30
31	12/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/20/2006	MAIL NON-FINAL REJECTION			
29	06/12/2006	NON-FINAL REJECTION			
28	04/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/29/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	05/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
25.7	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	23
25	04/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/03/2006	DATE FORWARDED TO EXAMINER			
23	04/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED		69	20
22	04/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	01/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	11/17/2005	MAIL RESTRICTION REQUIREMENT	236		-1
19	11/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
18	07/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/14/2004	PRELIMINARY AMENDMENT			
15	11/17/2004	CASE DOCKETED TO EXAMINER IN GAU			

14	11/03/2004	APPLICATION RETURN FROM OIPE			
13	11/03/2004	APPLICATION RETURN TO OIPE			
12	11/03/2004	APPLICATION DISPATCHED FROM OIPE			
11	11/03/2004	APPLICATION IS NOW COMPLETE			
10	10/12/2004	ADDITIONAL APPLICATION FILING FEES			
9	10/12/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	10/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	08/10/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	03/23/2004	CLEARED BY L&R (LARS)			
4	03/11/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/11/2004	CASE CLASSIFIED BY OIPE			
2	02/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/26/2004	INITIAL EXAM TEAM NN			

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#### **EXPLANATION OF PTA CALCULATION**

#### **EXPLANATION OF PTE CALCULATION**

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